

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

July 1, 2002
8:00 p.m.

Council Chambers
Bellevue, Washington

PRESENT: Mayor Marshall, Councilmembers Creighton, Davidson, Lee, Mosher, and Noble

ABSENT: Deputy Mayor Degginger

1. Call to Order

The meeting was called to order at 8:02 p.m. by Mayor Marshall, who presided.

2. Roll Call, Flag Salute

Upon roll call by the Assistant City Manager, all Councilmembers except Deputy Mayor Degginger were present. Mr. Lee led the flag salute.

(a) Introduction of Bellevue Sister City Exchange Students

Judy Louisell, Sister Cities Program Administrator, introduced Regan Sidie, Bellevue Sister Cities Association (BSCA) Kladno Committee Chair. Mr. Sidie introduced two students visiting from Kladno, Czech Republic: Martina "Mija" Holomcikova and Iveta Savrdova. Two Bellevue students, Morgan Tupper (Bellevue High School) and Aaron Rose (Sammamish High School), will travel to Kladno as part of the exchange program. Mija, Iveta, and Morgan thanked Council for the opportunity to participate in this program. Mayor Marshall invited them forward to shake Councilmembers' hands.

3. Communications: Written and Oral

Mayor Marshall asked citizens to not address the conditional use permit application of Open Window School because it is a quasi-judicial matter for Council and the record has been closed.

- (a) Stacy Anderson, a Surrey Downs resident, read a letter expressing concerns about a proposal to widen Bellevue Way and 112th Avenue. She asked Council to listen to residents and to create and preserve open space in the neighborhoods south of downtown.

- (b) Isabelle Van Coevorden, a young Cougar Mountain resident, asked Council to consider the safety of children when making decisions.

Mayor Marshall reiterated that Council cannot hear any comments about Open Window School.

- (c) Jan Benson, Co-Chair of Neighborhood Network North, asked Council to reconsider its decision to allow the neighborhood networks to operate independently from the City beginning in September. She described the organization's involvement in community projects.
- (d) Doug Hoople, Co-Chair of Neighborhood Network North, said the organization provides a useful function for residents and the City. He asked Council to reconsider the City's decision to let the Network operate on its own beginning in September.
- (e) Leslie Lloyd, a representative of Bellevue Downtown Association thanked the City, Washington Mutual, Nintendo, Seattle Times, The Point 96.5, and KISS 106.1 for co-sponsoring the Family 4th of July in Downtown Park.

2. (Resumed)

- (b) Proclamation of July as Parks and Recreation Month

Mayor Marshall read a proclamation declaring July as Parks and Recreation Month in Bellevue. She invited everyone to attend the 4th of July event in Downtown Park.

4. Reports of Community Councils, Boards and Commissions

Mary Pat Byrne, Arts Specialist, read a memo from the Bellevue Arts Commission announcing the Bellevue Sculpture Exhibition and the Factoria Boulevard Public Art Project. The sculpture exhibition opened on June 21 and features 45 sculptures located at Downtown Park, Meydenbauer Center, Bellevue Regional Library, and on Bellevue Way near Bellevue Art Museum.

Ms. Byrne noted item 8(e) on the Consent Calendar requesting approval of a contract for constructing public art in conjunction with the Factoria Boulevard street improvements. Maggie Smith was selected to design the artwork based on her experience as a public artist and her ability to create quiet, contemplative public spaces. The design includes landscaping and pedestrian improvements.

5. Report of the City Manager

City Manager Steve Sarkozy announced that the Washington State Auditor has completed its review and determined a clean audit opinion for the City's finances.

Mr. Sarkozy said the project known as MyBuildingPermit.com will be operational within the next few weeks.

6. Council Business

Dr. Davidson attended meetings of the Cascade Water Alliance Resource Planning and Finance Subcommittee and the WRIA 8 (Water Resource Inventory Area 8) Forum.

Mr. Mosher attended Bellevue Botanical Garden's 10th anniversary celebration and the opening of a new exhibit at Bellevue Art Museum. He attended meetings of the Puget Sound Regional Council (PSRC) Executive Committee, Bellevue Transportation Commission, King County Regional Transportation Investment District (RTID), and the Shared Salmon Strategy group.

Mr. Lee attended a meeting of the National League of Cities (NLC) Advisory Council.

Mayor Marshall said she and Councilmember Noble continue to attend transportation-related meetings. Mayor Marshall, Chair of the Eastside Transportation Partnership (ETP), attended the Washington State Transportation Commission's meeting in Seattle along with Bellevue's Transportation Director, Goran Sparrman.

7. Approval of the Agenda

➡ Dr. Davidson moved to approve the agenda, and Mr. Mosher seconded the motion.

➡ The motion to approve the agenda carried by a vote of 6-0.

8. Consent Calendar

Mr. Lee requested pulling item 8(e) for comment.

➡ Dr. Davidson moved to approve the Consent Calendar, as amended, and Mr. Mosher seconded the motion.

➡ The motion to approve the amended Consent Calendar carried by a vote of 6-0, and the following items were approved:

- (a) Minutes of May 28, 2002 Extended Study Session
Minutes of June 3, 2002 Regular Session
- (b) Motion to approve payment of claims for the period ending June 25, 2002, and payroll for the period June 1 through June 15, 2002.
- (c) Motion to reject all bids for Bid No. 0222, CIP Plan No. PS-40, Identification Laboratory Safety Improvements, and to rebid the project at a later time.
- (d) Resolution No. 6715 authorizing execution of an agreement with Moos Database Service, LLC, in an amount not to exceed \$200,000 for database consulting services.

- (f) Resolution No. 6717 consenting to the change of control of AT&T Corp., the indirect parent company of Community Telecable of Bellevue, Inc., with conditions. (*Discussed with Council at the June 24, 2002, Extended Study Session.*)
- (g) Resolution No. 6718 authorizing execution of a professional services agreement with River Oaks Communications in an amount not to exceed \$70,000 to conduct a community needs assessment of Bellevue's cable-related needs and interests including residential, educational, business, and government needs as part of the AT&T Broadband cable franchise renewal process.
- (h) Resolution No. 6719 authorizing execution of a maintenance agreement with Stripe Rite, Inc., in the amount of \$61,137.82 for the citywide annual pavement marking maintenance.

Item for Council Comment:

- (e) Resolution No. 6716 authorizing execution of a professional services agreement with Maggie Smith in an amount not to exceed \$200,000 to fabricate, provide, and install public art as part of an approved Capital Improvement Project along Factoria Boulevard. (CIP Plan No. CD-11)

Staff described and provided drawings of the proposed artwork to be incorporated into the Factoria Boulevard roadway project.

Councilmember Lee expressed support for the Factoria public arts project.

- ➡ Mr. Lee moved to approve Resolution No. 6716, and Mr. Mosher seconded the motion.
- ➡ The motion to approve Resolution No. 6716 carried by a vote of 6-0.

Mayor Marshall thanked staff for providing pictures of the art project.

9. Public Hearings

- (a) Public hearing regarding support of Referendum Bill 51

Assistant City Attorney Lori Riordan reviewed the rules for the public hearing.

- ➡ Mr. Mosher moved to open the public hearing, and Mr. Lee seconded the motion.
- ➡ The motion to open the public hearing carried by a vote of 6-0.

Diane Carlson, Director of Intergovernmental Relations, explained that Referendum Bill 51 will impose fees and taxes to finance transportation projects in Washington state. Projects on I-405, SR 520, and I-90 will receive funding through this initiative.

No one came forward to comment on the resolution supporting State Referendum Bill 51.

➡ Mr. Mosher moved to close the public hearing, and Mr. Lee seconded the motion.

➡ The motion to close the public hearing carried by a vote of 6-0.

Resolution No. 6720 supporting State Referendum Bill 51, financing transportation improvements through transportation taxes and fees, to be presented to voters in the November 5, 2002, State General election.

➡ Mr. Noble moved to approve Resolution No. 6720, and Mr. Mosher seconded the motion.

Noting that he does not like to impose or raise taxes, Mr. Lee said he will reluctantly support the resolution. He feels the state's transportation system is in critical need of funding.

Mr. Creighton said Referendum 51 provides funding to improve I-405, which would help reduce congestion and cut-through traffic in Bellevue.

Mr. Mosher feels the bill is important for maintaining mobility and jobs within this region and the state.

Dr. Davidson said the bill will provide needed transportation improvements within the Puget Sound region. He encouraged the public to support Referendum 51.

Mr. Noble feels the bill is critical to the long-term viability of the region. He views the gas tax and vehicle licensing fees as appropriate, responsible user fees.

Mayor Marshall said King County will receive 41 percent of the funding to be generated by Referendum 51. The bill addresses Council's priority to improve and expand capacity on I-405, SR 520, and I-90. She hopes a regional transportation package will follow in Spring 2003.

➡ The motion to approve Resolution No. 6720 carried by a vote of 6-0.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions: None.

12. Unfinished Business

- (a) Ordinance No. 5379 denying the appeal from a decision of the Hearing Examiner approving the application of Dan Vradenburg, Chair of the Board of Trustees of Open Window School, Application No. 99-2242-LB, for a conditional use permit,

with conditions, for a school to be located at 6128 168th Place SE in the city of Bellevue; and granting the conditional use permit with additional conditions.

Councilmember Lee recused himself from participation in this matter and left Council Chambers.

Mayor Marshall said Ordinance No. 5379 denies the appeal from a decision of the Hearing Examiner approving the application of Dan Vradenburg, Chair of the Board of Trustees of Open Window School (Application No. 99-2242-LB) for a conditional use permit, with conditions, for a school to be located at 6128 168th Place SE in the city of Bellevue, and grants the conditional use permit with additional conditions.

Mayor Marshall said prior to February 12, 2001, she received many emails addressed to the entire Council and City Clerk. She did not read any of the emails received after the appeal to the City Council was filed. She may have opened some of the emails, but once she saw they were about the pending appeal, she closed and forwarded them to the City Clerk. She does not recall reading anything of substance about the appeal in any of them. Prior to the appeal of the Hearing Examiner's decision by the residents association, Mrs. Marshall met with residents of the area and toured the area. They discussed many issues including traffic and the proposed school. She formed no opinions at that time about the application for a conditional use. Later Mrs. Marshall was contacted by residents association members about their possible appeal of the Hearing Examiner's decision. They did not discuss details of the application or appeal. Mrs. Marshall set up a meeting with them but canceled it after the City Clerk informed her the matter was quasi-judicial.

During the months prior to the first Council hearing in October 2000, Mrs. Marshall was contacted by a representative of Open Window School. At that time, she repeated a prior suggestion she had made that the school contact King County Metro about possible solutions to the traffic issues raised by residents. Mrs. Marshall hoped the parties would be able to work out their differences. She had not at any time prior to the hearing on February 5, 2001, made up her mind on any issue related to the conditional use permit application because she knew she was expected to keep an open mind and decide the appeal based on the record before the Council, which she did. After Council voted in March 2001 to grant the conditional use permit, Mrs. Marshall hugged Mr. Vradenburg from the school and told him she assumed he would be a good neighbor as he and other school representatives have promised. Mrs. Marshall said they had no substantive discussion regarding the matter.

Several weeks later, shortly before the residents appealed the Council's decision to Superior Court, Mark Gregoire dropped by Mrs. Marshall's house unannounced and left a packet of material. He said it was about traffic on Cougar Mountain Way and they did not discuss the content. Mrs. Marshall forwarded the packet to the City Attorney's Office without reading it. She received a couple of other emails since then regarding the school's application. She did not read them and forwarded them to the City Clerk. Mrs. Marshall said she has not had any other communications whether oral, written, voicemail, or electronic regarding Open Window School.

Mayor Marshall asked Councilmembers to disclose any ex parte communications regarding this issue.

Mr. Mosher received many emails about Open Window School that were addressed to the entire Council and the City Clerk. Emails he identified as being about the school and the conditional use permit were sent to the Clerk without reading them. Mr. Mosher does not recall reading any substantive information about the merits of the appeal. He received some emails addressed only to him. Those immediately recognizable as being about Open Window School were forwarded to the City Clerk. Other emails that did not readily identify the school as the subject were closed and forwarded to the Clerk as well without Mr. Mosher reading them. He did not recall reading anything about the substance or merits of the application in any of the emails, although some encouraged a vote one way or the other. Mr. Mosher has had no other oral, written, voicemail, or electronic communications regarding the Open Window School conditional use permit.

Dr. Davidson received emails regarding Open Window School addressed to the entire Council and City Clerk. He did not read any of the emails. Dr. Davidson has had no other communications whether oral, written, voicemail, or electronic regarding the Open Window School matter.

Mr. Creighton said prior to the Council's approval of the conditional use permit on March 19, 2001, he received many emails about Open Window School addressed to the entire Council and City Clerk. He did not read any of the emails. He received the email from Mr. Herbig, also received by Mr. Noble, but he did not open it. After the time for reconsideration passed following the Council meeting of March 19, Mr. Creighton received a number of emails thanking him for his vote. He read and deleted them, noting that none contained any substantive information or discussion of the merits of the appeal. Since March 19, 2001, Mr. Creighton does not recall receiving any other communications whether oral, written, voicemail, or electronic regarding Open Window School conditional use permit. He may have received some emails that went to the entire Council, but he did not open or read any of them. If he opened any, he closed and deleted them after seeing the subject.

Mr. Noble made the following disclosure of ex parte communications regarding Open Window School. Prior to the February 12, 2001, City Council meeting, Mr. Noble received numerous emails from citizens on both sides of the issue, most of which were addressed to the entire Council and the City Clerk. He read only one of the emails, which was from David Herbig, a longtime acquaintance of Mr. Noble's. He turned the email over to the City Clerk. The substance of the email was that Mr. Herbig's child had attended the school for six years, the school provides specialized education for gifted children, the school is a good corporate citizen with dedicated parental support, and the school currently goes through fifth grade but the new school would go through eighth grade. Mr. Herbig said the school has passed all building requirements and it would be a travesty if the project were blocked by a few neighbors. He urged Mr. Noble to reconsider, offered to provide additional information, and asked what the school could do to gain City support. Mr. Noble did not respond to the email.

Also prior to the February 12 Council meeting, Mr. Noble had one oral communication with another acquaintance, Troy Roper, who wanted to talk about the issue. Mr. Noble told Mr.

Roper he could not discuss the matter and the conversation was terminated. Mr. Noble had no further ex parte contacts regarding Open Window School after February 12, 2001, and until March 19, 2001, except for emails to the entire Council, which were forwarded to the City Clerk. After the March 19 vote on the ordinance approving the conditional use permit and up until today, Mr. Noble received a number of emails. He read some of the emails and they contained thank-you's or words to that effect. None of the emails contained any substantive comments. He received other emails on the subject that he did not open.

➡ Mr. Mosher moved to adopt Ordinance No. 5379 denying the appeal from a decision of the Hearing Examiner approving the application of Dan Vradenburg, Chair of the Board of Trustees of Open Window School, Application No. 99-2242-LB, for a conditional use permit, with conditions, for a school to be located at 6128 168th Place SE in the city of Bellevue; and granting the conditional use permit with additional conditions. Mr. Creighton seconded the motion.

➡ The motion to adopt Ordinance No. 5379 carried by a vote of 5-0, with Councilmember Lee absent from Council Chambers.

13. Continued Oral Communications: None.

14. New business: None.

15. Executive Session: None.

16. Adjournment

At 9:06 p.m., Mayor Marshall declared a break before returning to the study session.

Myrna L. Basich
City Clerk

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